IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7341 of 2007(Y)

PETITIONER:

M/S.SIEMENS LIMITED, 130,
PANDURANG, BUDHKAR MARG, WORLI,
MUMBAI-400 018, REP. BY LIJO V JOY,
SR.EXECUTIVE MARKETING SIEMENS LTD.,
ERNAKULAM.

BY ADV. SRI.JOSE JOSEPH

RESPONDENTS:

---

1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES CHECK POST, WALAYAR.

2. THE LOURDES HOSPITAL, PACHALAM,
COCHIN-682 012, REP. FR.SABU NEDUNILATH,
EXECUTIVE DIRECTOR.

BY GOVERNMENT PELADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.7341 of 2007-Y

Dated this the 6th day of March, 2007

JUDGMENT

The second respondent herein, which is a reputed hospital placed an order with the petitioner for supply of an EPABX System. Based on the said purchase order, the goods have been consigned from Mumbai to the second respondent consignee. When the goods reached at Valayar Check post, it was detained and Ext.P4 notice under Sec.47 (2) of the Kerala Value Added Tax Act, 2003 has been served. The defect noticed is that the consignee is not a registered dealer under the Kerala Value Added Tax Act and no valid documents were attached to prove the ownership of the goods. The petitioner submits, it would appear that the defect noticed may be absence of Form 16 declaration. According to it, when the consignor transfers the goods, Form 16 declaration is not necessary. It is required, if only the purchaser is transporting the goods.

2. I heard the learned Government Pleader for the first respondent.

3. This Court has already disposed of similar writ petitions upholding the claim of the consignors. Form 16 declaration is not necessary for transporting the EPABX.

Accordingly, the Writ Petition is allowed. The first respondent is directed to release the goods on executing a simple bond without sureties. This direction is issued so that the first respondent can enquire into the genuineness of transfer, if so advised, untrammeled by the release of goods.

K.BALAKRISHNAN NAIR, JUDGE.

MS